

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

 ORIGINAL

\_\_\_\_\_  
Certiorari to Charleston County

Roger E. Henderson, Circuit Court Judge

RECEIVED

SEP 13 2017

TRAVIS FORD,

S.C. SUPREME COURT  
PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-001299

\_\_\_\_\_  
PETITION FOR ORDER  
TO RECONSTRUCT THE RECORD OF  
PETITIONER'S FIRST PCR HEARING  
\_\_\_\_\_

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, the undersigned counsel requests that the above titled appeal be held in abeyance pending a decision from this Court regarding this petition for an Order to Reconstruct the Record of petitioner's first PCR hearing held on July 20, 2010, at the Charleston County Courthouse before Judge Deadra L. Jefferson as such is needed in order to perfect the grant of a belated PCR appeal per Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), on petitioner's behalf. In support of the petition, counsel for petitioner would submit the following information.

1.) Petitioner pled guilty to trafficking in cocaine, second offense, and possession of cocaine with intent to distribute within proximity of a school during the July 2009 term of the Charleston County General Sessions Court before Judge Roger M. Young, Sr., and was sentenced to an aggregate sixteen-year prison term. Petitioner did not appeal his guilty pleas and/or sentences.

2.) On October 29, 2009, petitioner filed a PCR application with the Charleston County Office of the Clerk of Court. The respondent filed a return dated January 25, 2010, requesting that a hearing be held in the case. In response to this PCR application filed by petitioner, a PCR hearing was convened on July 20, 2010, at the Charleston County Courthouse before Judge Deadra L. Jefferson. On August 6, 2010, Judge Jefferson filed an Order of Dismissal denying petitioner's allegations of ineffective assistance of counsel in the case. However, PCR counsel failed to file a PCR appeal of Judge Jefferson's Order of Dismissal. Thus, petitioner did not enjoy the benefit of an appeal of his first PCR action.

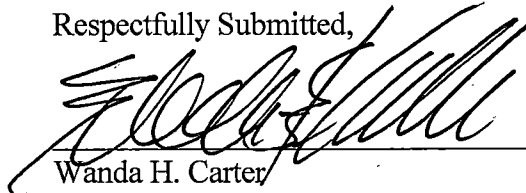
3.) On May 1, 2012, petitioner filed a second PCR application requesting a belated PCR appeal of his first PCR action pursuant to Austin v. State, supra. A PCR hearing was held in the matter on July 22, 2015, at the Charleston County Courthouse before Judge Roger E. Henderson. On May 16, 2017, Judge Henderson issued an "Order Granting Austin Review."

4.) In order to perfect petitioner's Austin appeal, a transcript of petitioner's first PCR hearing must be produced for appellate review. Opposing counsel requested said transcript on March 15, 2017, and on March 24, 2017, a letter from South Carolina Court Administration was sent out advising that the records for this requested hearing were no longer available.

5.) When a trial transcript has been lost or destroyed, the Court may remand to have the record reconstructed. See Whitehead v. State, 352 S.C. 215, 574 S.E.2d 200 (2002), and China v. Parrott, 251 S.C. 329, 162 S.E.2d 276 (1968). See also Deaton v. Leath, 279 S.C. 82, 302 S.E.2d 335 (1985), where the Court granted the appellant's motion to set aside their convictions and remand for a new trial where the court reporter's equipment malfunctioned and there was no transcript of the trial court proceedings in the case from which to base an appeal.

WHEREFORE, the undersigned counsel requests that this Court grant this Petition for an Order to Reconstruct the Record of Petitioner's first PCR hearing so that petitioner's PCR Austin appeal can be perfected. Note that no extensions have been requested in this case.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', is written over a horizontal line.

Wanda H. Carter  
Deputy Chief Appellate Defender

September 13, 2017

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to Charleston County

Roger E. Henderson, Circuit Court Judge  
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TRAVIS FORD,

PETITIONER,

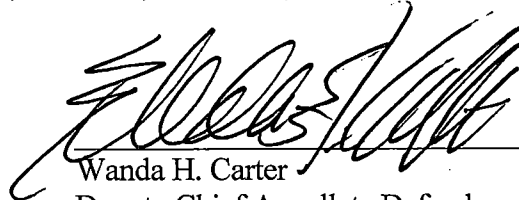
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

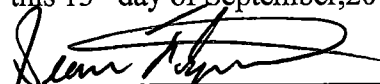
The undersigned attorney hereby certifies the Petition for Order to Reconstruct the Record of Petitioner's first PCR hearing in the above referenced case has been served upon Judah VanSyckel, Esquire, Assistant General, Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Rm. 519, Columbia, SC 29201, this 13<sup>th</sup> day of September, 2017.

  
\_\_\_\_\_  
Wanda H. Carter

Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me  
this 13<sup>th</sup> day of September, 2017.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.



ORIGINAL

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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

September 13, 2017

RECEIVED  
SEP 13 2017  
S.C. SUPREME COURT

Honorable Daniel E. Shearouse  
Clerk, South Carolina Supreme Court  
Post Office Box 11330  
Columbia, South Carolina 29211

Re: Travis Ford v. State of South Carolina

Dear Mr. Shearouse,

Enclosed please find the original and six copies of the Petition for an Order to Reconstruct the Record of Petitioner's first PCR hearing in the above case.

If you have any questions concerning this matter, please contact me.

Sincerely,

Wanda H. Carter  
Deputy Chief Appellate Defender

WHC/smf

Enclosures